IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4288 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

B J RAMI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4288 of 2002

MR NIKHIL S KARIEL for Petitioner No. 1

MR KP RAVAL A.G.P. for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 14/07/2004

ORAL JUDGEMENT

1.0. In this petition, the petitioner has prayed for a direction that his pension may be finalized by the respondents and in the alternative respondent no. 2 be

directed to pay the petitioner interest at the rate of 18% for delay.

2.0. The short facts of the case are that the petitioner had retired on 31st July, 2001 as Sales Tax Inspector after having served the State Government for 33 years. The petitioner states that there is no departmental inquiry contemplated or pending against him and all his pension papers have been sent to the Provident Fund office on 20th July, 2000. The petitioner further states that respondent no. 2 demanded certain documents, which were supplied by the office of respondent no.1. The petitioner states that respondent no. 2 by raising unwarranted objections is delaying the payment of pension. Hence by way of this petition, he has approached this Court.

2.1. Mr. Nikhil Kariel learned advocate for the petitioner has submitted that he was entitled to get Rs.7097=50 by way of pension every month for a period of ten months. He has also submitted that interest on gratuity was to be paid on 1st August, 2001, but it was only paid on 25th June, 2002 and, therefore, he was entitled for Rs.25,140=00, calculating the same at the rate of 12% per annum. He has also submitted that for Commuted amount of pension, he was entitled to get interest of Rs.26,682=70 at the rate of 12% and in respect of Leave encashment he was paid Rs.22,503=00 he is entitled for Rs.2,700=36. Thus, Mr. Kariel submitted that the petitioner is entitled to get total amount of Rs.54,523=00, out of which he was paid Rs.13,920=00. Thus, the petitioner has suffered loss approximately to an extent of Rs.40,600=00. In that view of the matter, he submitted that the respondents may be directed to pay interest on the amount of Rs.40,599=06.

2.2. Mr.Raval learned A.G.P. for the respondents has submitted that the petitioner's pension papers are cleared and he has been paid all retirement dues and interest is also paid for delay of payment of gratuity. He stated that an amount of Rs.13,924=00 is paid by way of interest.

3.0. There is no dispute that the petitioner has been paid retirement dues, within ten months. It is also true that there was delay. The delay was on the part of the respondent authorities. Therefore, as per the law laid down by the Apex Court, the petitioner is entitled to get interest on the retirement dues. Though the petitioner has calculated the interest at the rate of 12% per annum, looking to the particular facts, I am of the opinion that

interest of justice would be met if interest is granted at the rate of 9% per annum. Accordingly the petition is partly allowed.The respondents shall calculate the amount of interest payable on the amount due to the petitioner at the rate of 9% for the period in question. Rule is made absolute to the aforesaid extent with no order as to costs.

4.0 It is clarified that this order shall not be treated as precedent in any other case.

[K.S. JHAVERI, J.]

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